

## 21 C.J.S. Courts § 3

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### Courts

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### I. In General

#### A. General Nature, Power, and Administration of Courts

## § 3. Administrative power exercised by court

[Topic Summary](#) | [References](#) | [Correlation Table](#)

### West's Key Number Digest

West's Key Number Digest, [Courts](#) 1, 78, 80(1)

**The judiciary has the power to provide for the administration of the courts, including rulemaking power, whether considered inherent in the court or based on constitutional or statutory provisions.**

The inherent authority of the judiciary includes the power to effectuate the orderly and efficient administration of justice,<sup>1</sup> as reasonably necessary for the administration of justice,<sup>2</sup> including ancillary functions, such as judicial administration<sup>3</sup> and administrative powers.<sup>4</sup> Legislation in violation of the courts' inherent administrative powers may be invalid under the separation of powers between the judicial and legislative branches of government.<sup>5</sup>

Courts have the inherent power to make and enforce reasonable rules for the administration of the judicial system,<sup>6</sup> and the conduct of cases before the courts,<sup>7</sup> subject to the limitations of substantive law as left to the legislature.<sup>8</sup> The power may be considered as constitutionally derived, based on an express grant of power to the courts,<sup>9</sup> permitting the courts to exercise rulemaking power without violating the separation of powers by infringing on legislative prerogatives,<sup>10</sup> or the courts' power may be considered as implicitly predicated on the constitutional separation of powers setting the courts' power apart from that of the legislature.<sup>11</sup> The courts' power may also be derived from an express and exclusive grant of authority to the courts by the legislature.<sup>12</sup>

In some states, the power to regulate court procedure is reserved primarily to the legislature, while still permitting the courts latitude to adopt procedures consistent with the general statutory practice,<sup>13</sup> as when the legislature has created a vacuum.<sup>14</sup>

In these states, while the legislature may delegate administrative powers to the courts, the courts' authority must be exercised consistent with the statutory delegation.<sup>15</sup>

The courts' inherent administrative powers encompass the authority to exercise physical control over the courtroom<sup>16</sup> and to regulate courtroom activities in order to preserve order and decorum, protect the rights of parties and witnesses, and further the administration of justice.<sup>17</sup>

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#### Footnotes

- 1 Cal.—*In re E.M.*, 228 Cal. App. 4th 828, 175 Cal. Rptr. 3d 711 (4th Dist. 2014).  
  
Ohio—*State ex rel. Byers v. Carr*, 2016-Ohio-241, 2016 WL 362963 (Ohio Ct. App. 6th Dist. Lucas County 2016).  
  
Wis.—*State v. Melton*, 2013 WI 65, 349 Wis. 2d 48, 834 N.W.2d 345 (2013).  
  
**Constitutionally derived authority**  
Tenn.—*Mansell v. Bridgestone Firestone North American Tire, LLC*, 417 S.W.3d 393 (Tenn. 2013).  
  
W. Va.—*In re Watkins*, 233 W. Va. 170, 757 S.E.2d 594 (2013).  
  
**All things necessary and proper**  
Neb.—*In re Interest of Samantha L.*, 284 Neb. 856, 824 N.W.2d 691 (2012).
- 2 Fla.—*Weissman v. Braman*, 132 So. 3d 327 (Fla. 4th DCA 2014).  
  
Kan.—*Solomon v. State*, 364 P.3d 536 (Kan. 2015).  
  
Mo.—*State ex rel. Director of Revenue v. McBeth*, 366 S.W.3d 95 (Mo. Ct. App. W.D. 2012).  
  
Nev.—*Ryan's Express v. Amador Stage Lines*, 279 P.3d 166, 128 Nev. Adv. Op. No. 27 (Nev. 2012).  
  
N.C.—*In re Interest of Samantha L.*, 284 Neb. 856, 824 N.W.2d 691 (2012).  
  
Wash.—*Greenbank Beach and Boat Club, Inc. v. Bunney*, 168 Wash. App. 517, 280 P.3d 1133 (Div. 1 2012).  
  
W. Va.—*State ex rel. J.C. v. Mazzone*, 233 W. Va. 457, 759 S.E.2d 200 (2014).
- 3 Ky.—*Administrative Office of Courts v. Miller*, 468 S.W.3d 323 (Ky. 2015).  
  
Mass.—*Bower v. Bournay-Bower*, 469 Mass. 690, 15 N.E.3d 745 (2014).
- 4 Cal.—*People v. Olsen*, 229 Cal. App. 4th 981, 177 Cal. Rptr. 3d 791 (6th Dist. 2014).  
  
Ill.—*People v. Salem*, 2016 IL 118693, 47 N.E.3d 997 (Ill. 2016).  
  
Kan.—*Solomon v. State*, 364 P.3d 536 (Kan. 2015).  
  
Tex.—*Assignees of Best Buy v. Combs*, 395 S.W.3d 847 (Tex. App. Austin 2013), review denied, (June 27, 2014).
- 5 Ill.—*Kaull v. Kaull*, 2014 IL App (2d) 130175, 389 Ill. Dec. 271, 26 N.E.3d 361 (App. Ct. 2d Dist. 2014).  
  
Kan.—*Solomon v. State*, 364 P.3d 536 (Kan. 2015).

- 6 Kan.—*Solomon v. State*, 364 P.3d 536 (Kan. 2015).
- Ky.—*Administrative Office of Courts v. Miller*, 468 S.W.3d 323 (Ky. 2015).
- Mass.—*Bower v. Bournay-Bower*, 469 Mass. 690, 15 N.E.3d 745 (2014).
- Utah—*Warner v. Warner*, 2014 UT App 16, 319 P.3d 711 (Utah Ct. App. 2014).
- Wash.—*In re Detention of Lane*, 182 Wash. App. 848, 332 P.3d 1042 (Div. 1 2014).
- Essential statewide measures**
- Wis.—*State v. Henley*, 2011 WI 67, 338 Wis. 2d 610, 802 N.W.2d 175 (2011).
- Compel observance of court rules**
- Conn.—*Sowell v. DiCara*, 161 Conn. App. 102, 127 A.3d 356 (2015), certification denied, 320 Conn. 909, 128 A.3d 953 (2015).
- 7 Fla.—*Weissman v. Braman*, 132 So. 3d 327 (Fla. 4th DCA 2014).
- Mich.—*People v. Jones*, 497 Mich. 155, 860 N.W.2d 112 (2014).
- Minn.—*State v. Hill*, 871 N.W.2d 900 (Minn. 2015).
- Tenn.—*Mansell v. Bridgestone Firestone North American Tire, LLC*, 417 S.W.3d 393 (Tenn. 2013).
- Wash.—*In re Detention of Lane*, 182 Wash. App. 848, 332 P.3d 1042 (Div. 1 2014).
- 8 Cal.—*Bank of America, N.A. v. Superior Court of Orange County*, 212 Cal. App. 4th 1076, 151 Cal. Rptr. 3d 526 (4th Dist. 2013).
- Mich.—*People v. Jones*, 497 Mich. 155, 860 N.W.2d 112 (2014).
- Resolution of judicial and legislative conflicts**
- If there is a conflict between the court rules and a statute, the court should first attempt to harmonize the rules, and when the rules cannot be harmonized, the court rule prevails in procedural matters, and the statute prevails in substantive matters.
- Wash.—*In re Detention of Lane*, 182 Wash. App. 848, 332 P.3d 1042 (Div. 1 2014).
- 9 Colo.—*Mercantile Adjustment Bureau, L.L.C. v. Flood*, 2012 CO 38, 278 P.3d 348 (Colo. 2012).
- Ill.—*Kaull v. Kaull*, 2014 IL App (2d) 130175, 389 Ill. Dec. 271, 26 N.E.3d 361 (App. Ct. 2d Dist. 2014).
- Ky.—*Administrative Office of Courts v. Miller*, 468 S.W.3d 323 (Ky. 2015).
- Nev.—*Ryan's Express v. Amador Stage Lines*, 279 P.3d 166, 128 Nev. Adv. Op. No. 27 (Nev. 2012).
- N.C.—*State v. Randolph*, 224 N.C. App. 521, 735 S.E.2d 845 (2012).
- Pa.—*Com. v. Stultz*, 2015 PA Super 99, 114 A.3d 865 (2015), appeal denied, 125 A.3d 1201 (Pa. 2015).
- 10 Pa.—*Com. v. Stultz*, 2015 PA Super 99, 114 A.3d 865 (2015), appeal denied, 125 A.3d 1201 (Pa. 2015).
- 11 Alaska—*Jennifer L. v. State, Dept. of Health and Social Services*, 357 P.3d 110 (Alaska 2015).
- Kan.—*Solomon v. State*, 364 P.3d 536 (Kan. 2015).
- Nev.—*Civil Rights for Seniors v. AOC*, 313 P.3d 216, 129 Nev. Adv. Op. No. 80 (Nev. 2013).

- Tenn.—[Mansell v. Bridgestone Firestone North American Tire, LLC](#), 417 S.W.3d 393 (Tenn. 2013).
- 12 Tex.—[Assignees of Best Buy v. Combs](#), 395 S.W.3d 847 (Tex. App. Austin 2013), review denied, (June 27, 2014).
- 13 N.Y.—[State v. Robert F.](#), 25 N.Y.3d 448, 13 N.Y.S.3d 319, 34 N.E.3d 829 (2015).
- 14 N.Y.—[People ex rel. Fortunato v. Warden, George Motchan Detention Center](#), 48 Misc. 3d 649, 9 N.Y.S.3d 849 (Sup 2015).
- 15 N.Y.—[Bank of New York Mellon v. Izmiriligil](#), 43 Misc. 3d 409, 980 N.Y.S.2d 733 (Sup 2014).
- 16 Mass.—[Com. v. O'Neil](#), 418 Mass. 760, 641 N.E.2d 702 (1994).
- 17 Mass.—[Munshani v. Signal Lake Venture Fund II, LP](#), 60 Mass. App. Ct. 714, 805 N.E.2d 998 (2004).

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